

CAUSE NO. D-1-GN-11-03130

TEXAS TAXPAYER & STUDENT	§	IN THE DISTRICT COURT
FAIRNESS COALITION, <i>ET AL.</i> ,	§	
	§	
Plaintiffs,	§	
	§	
EDGEWOOD INDEPENDENT SCHOOL	§	
DISTRICT, <i>ET AL.</i> , (consolidated)	§	
	§	
Plaintiffs	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
MICHAEL WILLIAMS, in his official	§	
capacity as Commissioner of Education,	§	
<i>ET AL.</i> ,	§	
	§	
Intervenors,	§	200TH JUDICIAL DISTRICT

RULE 11 AGREEMENT

**EDGEWOOD PLAINTIFFS', TEXAS TAXPAYER & STUDENT FAIRNESS
COALITION'S, FORT BEND I.S.D.'S AND CHARTER PLAINTIFFS' STIPULATIONS**

In order to streamline the case presented by Mario Flores, *et al.*, and eliminate unnecessary cross-examination, Edgewood I.S.D., *et al.*, ("Edgewood Plaintiffs"), Texas Taxpayer & Student Fairness Coalition, *et al.*, Fort Bend I.S.D., *et al.*, and Mario Flores, *et al.*, ("Charter Plaintiffs") hereby stipulate to the following facts and enter into this Agreement pursuant to Tex. R. Civ. P. 11:

FUNDING

1. In Texas public schools, there exists a great deal of variation in charter school revenue generated from local fundraising. (Ex. 9031, 188:12-16) Some charters are quite successful at fundraising and have philanthropic funding, while others do not. (Ex. 9031 185:8-15) 728.

2. Charter school funding is based on the average daily attendance of students statewide. (Partridge) The weighted student adjustments are the same for charter schools and traditional public school districts (“TPSDs”). (Ex. 9031, 127:6-19) Individual ISDs receive basic allotments in Tier 1 according to a formula, and charter schools receive an allotment in Tier I that is based on the average of the TPSD statewide adjusted basic allotments. (Ex. 9031, 131:1-10) Most charter schools get the statewide average of the Tier II allotment, and some receive more because of a hold-harmless provision in state law. (Ex. 9031, 132:2-16)
3. Charter schools do not receive funds specifically earmarked for facilities. (Partridge) Property-poor TPSDs also may not receive facilities funding if Instructional Facilities Allotment funds or Existing Debt Allotment payments are not appropriated, if TPSDs are at their bonding capacity, if they do not qualify, or if they are unable to pass a bond election so that charter schools and property-poor TPSDs may face similar obstacles regarding new facilities funding. (Ex. 9031, 134:14-20, 202:5-9)
4. Charter schools and TPSDs are affected similarly by inadequate funding for English language learner students (“ELLs”) and low-income, or economically disadvantaged, students.
5. To the extent that districts are harmed by the constitutional unsuitability and inadequacy of the school district funding formulas, charter schools are similarly harmed because their funding is based on an average of those formulas.
6. TPSDs revenues are adjusted and weighted applying outdated and outmoded formulas not based on current academic and economic conditions [or any guiding rules and principles]. Charter Schools are similarly harmed as they receive the average of these

revenue adjustments producing constitutionally inefficient and unsuitable results for both TPSDs and Charter Schools.

7. Charter schools and TPSDs are similarly impacted by the rigors of STARR, EOC and the failure of the entire public school system to reach a general diffusion of knowledge.

PERFORMANCE & ACCOUNTABILITY

8. There is wide variation in outputs among charter schools and TPSDs. There is variation in performance metrics and quality in the charter school system, just as there is within the traditional public school system. (Ex. 9031 168:1-8)
9. There is no consensus on the issue of whether charter schools or TPSDs outperform each other. (Ex. 9031 195:1-8)
10. Charter schools are not immune to achievement gaps among student groups based on language and income as seen in TPSDs. (Ex. 9031 228:11-21, 230:22-231:7; Ex. 1813)
11. Charter campuses and campuses at traditional ISDs are similar on most demographic characteristics. In 2011, both had about 50% Hispanic student populations, 16% ELL populations, and their at-risk figures were similar. (Ex. 1783 , lines 5 & 9; Partridge) About sixteen percent of the population in both systems is in an ESL or bilingual education program. (Ex. 1783, line 11). Charter schools, on average, educate a higher percentage of economically disadvantaged students than TPSDs, on average and the percentage of economically disadvantaged students among charter schools is comparable to that of property-poor school districts like the Edgewood Districts.
12. On the 2009-2010 TAKS examination, charter campuses and campuses at traditional ISDs showed similar performance figures across subjects and across demographics. (Ex. 1783, lines 19-29)

13. Exhibit 1807 summarizes FAST data for the three largest charter systems, the charter systems that the Charter Plaintiffs' children attend, and the Edgewood Plaintiffs' ISDs. Between the charter schools and Edgewood ISDs, there is similar variation in the FAST scores, the composite academic progress quintiles, and student demographics. (Ex. 1807; Ex. 9031 214:25-217:25)
14. Exhibit 1810 shows that 2 of the largest charter systems, the charter schools attended by the Charter Plaintiffs' children, and the Edgewood Plaintiffs' ISDs all receive similar amounts of revenue per WADA and revenue per ADA. (Ex. 1810; Ex. 9031 219:8-222:11) All of these systems receive significantly less per WADA than Austin ISD. (Ex. 1810)

NOT EVERY STUDENT IS FIT FOR EVERY CHARTER SCHOOL

15. Some students will be a better fit at some charter campuses than at others. (Ex. 9034 77:11-14).
16. Some charter schools have high expectations for parental involvement, including the expectation that parents open their homes for home visits. (Ex. 9034 77:7-10).
17. Some charter schools require extended learning time for their students, such as extended school days and extended school years (Ex. 9034 76:3-11; Ex. 9030 123:7-10). For others, extended learning time is optional.
18. Some charter schools have particular dress codes and codes of conduct, including a number of no-tolerance campuses. (Ex. 9034 76:12-16-22)
19. Some charter schools limit the availability of team sports, and some do not offer student groups, clubs, and interscholastic activities that relate to art, music, and athletics. (Ex. 9034 78:25-79:7)

20. The factors under paragraphs 16-19 may affect a student or parent's decision to have their student attend a charter school.

Dated: January 28, 2013

Respectfully submitted and approved,

**MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND, INC.**

David G. Hinojosa
State Bar No. 24010689
Marisa Bono
State Bar No. 24052874
Rebecca Couto da Silva
State Bar No. 24082473
110 Broadway, Suite 300
San Antonio, Texas 78205
Telephone: 210-224-5476
Facsimile: 210-224-5382

By: s/David G. Hinojosa
David G. Hinojosa

**MULTICULTURAL, EDUCATION,
TRAINING AND ADVOCACY, INC.**

Roger L. Rice*
240A Elm Street, Suite 22
Somerville, MA 02144
Ph: (617) 628-2226
Fax: (617) 628-0322
**Admitted Pro Hac Vice*

Attorneys for Edgewood ISD, *et al.*, Yolanda
Canales, Arturo Robles, Araceli Vasquez, and
Jessica Romero, Plaintiffs

SCHULMAN, LOPEZ & HOFFER, LLP

Robert A. Schulman
Texas Bar No. 17834500
Leonard J. Schwartz
Texas Bar No. 17867000

Joseph E. Hoffer
Texas Bar No. 24049462
517 Soledad Street
San Antonio, Texas 78205-1508
Telephone: (210) 538-5385
Facsimile: (210) 538-5384

Attorneys for Charter Plaintiffs

By: Robert A. Schulman /s/ w/p DH
Robert A. Schulman

GRAY & BECKER, P.C.

Richard E. Gray, III
State Bar No. 08128300
Toni Hunter
State Bar No. 10295900
Richard E. Gray, IV
State Bar No. 24074308
900 West Ave.
Austin TX 78701
Telephone: 512-482-0061
Facsimile: 512-482-0924

Attorneys for Texas Taxpayers

By: Richard E. Gray, III /s/ w/p DH
Richard E. Gray, III

THOMPSON & HORTON, LLP

J. David Thompson, III
State Bar No. 19950600
Phillip Fraissinet
State Bar No. 00793749
Phoenix Tower, Suite 2000
3200 Southwest Freeway
Houston TX 77027
Telephone: 713-554-6767
Facsimile: 713-583-9668

Attorneys for Fort Bend I.S.D.

By: J. David Thompson, III /s/ w/p DH
J. David Thompson, III

CERTIFICATE OF SERVICE

I certify that on January 28, 2013, I served the foregoing document via electronic service to the parties listed below:

GREG ABBOTT

Attorney General of Texas

DANIEL T. HODGE

First Assistant Attorney General

DAVID C. MATTAX

Deputy Attorney General for Defense Litigation

ROBERT B. O'KEEFE

Chief, General Litigation Division

SHELLEY N. DAHLBERG

Assistant Attorney General Texas

Texas Attorney General's Office

General Litigation Division

P. O. Box 12548, Capitol Station

Austin, Texas 78711

Fax: (512) 320-0667

Attorneys for Defendants

Mark R. Trachtenberg

HAYNES AND BOONE, LLP

1 Houston Center

1221 McKinney St., Suite 2100

Houston, Texas 77010

Fax: (713) 547-2600

John W. Turner

HAYES AND BOONE, LLP

2323 Victory Avenue, Suite 700

Dallas, Texas 75219

Fax: (214) 651-5940

Attorneys for Plaintiffs, Calhoun County ISD, et al.

Richard Gray

Toni Hunter

GRAY & BECKER, P.C.

900 West Ave.

Austin, Texas 78701

Fax: (512) 482-0924

Randall B. Wood

Doug W. Ray

RAY & WOOD

2700 Bee Caves Road #200

Austin, Texas 78746

Fax: (512) 328-1156

Attorneys for Plaintiffs, Texas Taxpayer &
Student Fairness Coalition, et al.

J. David Thompson, III

Philip Fraissinet

THOMPSON & HORTON, LLP

Phoenix Tower, Suite 2000

3200 Southwest Freeway

Houston, Texas 77027

Fax: (713) 583-9668

Attorneys for Plaintiffs, Fort Bend ISD

J. Christopher Diamond
The Diamond Law Firm, P.C.
17484 Northwest Freeway
Ste. 150
Houston, Texas 77040
Fax: (832) 201-9262

Craig T. Enoch
Melissa A. Lorber
Enoch Kever PLLC
600 Congress, Ste. 2800
Austin, Texas 78701
Fax: (512) 615-1198

Attorneys for Intervenors, Joyce Coleman, et al.

By: s/Rebecca Couto da Silva
Rebecca Couto da Silva

Unofficial copy Travis Co. District Clerk Velda L. Price